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Report of the Working Group on the Universal Periodic Review*

Republic of Moldova

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

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1. The Republic of Moldova (hereinafter "RM") welcomes the interactive dialogue and the 209 recommendations received from 75 delegations during the second cycle Universal Periodic Review that took place on 4 November 2016.

2. During the session of the UPR Working Group, the Republic of Moldova accepted 175 of the 209 recommendations, noting three[1] and deferring 31[2] for subsequent examination in the capital, before the 34th session of the Human Rights Council.

3. The table below presents the position taken by the RM regarding the 31 recommendation, out of which 15 – enjoy full support, 12 – are noted and 4 recommendations are partially supported/noted, in which case, it concretely specifies which part of the recommendation is being supported and which is noted.

Table 1. List of recommendations that were deferred during the 26th session of the UPR WG

No.	*Recommendation/country*	*Status*
122.1	Ratify the Optional Protocol to the ICESCR and accept its investigation procedure and its communications procedure between States (Uruguay);	Supported
122.2	Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Portugal);	Supported
122.3	Continue the process towards the ratification of the ICRMW and ILO Convention 189 (Philippines);	Noted
122.4	Ratify the ICRMW (Uruguay, Afghanistan);	Noted
122.5	Ratify, as soon as possible, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Guatemala);	Noted
122.6	Resume the ratification process of the ICRMW (Turkey);	Noted
122.7	Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (N), the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (S) and the Optional Protocol to the Convention on the Rights of Persons with Disabilities (El Salvador) (S);	ICRMW – N OP - ICESCR – S OP-CRPD – S
122.8	Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Indonesia);	Noted
122.9	Consider ratifying ICRMW (N), Protocol 12 to the European Convention on Human Rights (S) and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Albania) (S);	ICRMW – N Protocol No.12 – S Istanbul Convention – S
122.10	Ratify ICPPED as no country is free from cases of enforced disappearance (Slovakia);	Supported
122.11	Ratify the ICPPED (Uruguay, Montenegro);	Supported

122.12	Ratify as soon as possible the International Convention for the Protection of All Persons against Enforced Disappearance, a major instrument in the fight against impunity, and recognize the competence of the Committee on Enforced Disappearances (France);	Supported
122.13	Ratify and accede to the ICPPED (S) and the ICRMW (N) (Sierra Leone);	ICPPED – S ICRMW – N
122.14	Ratify ICPPED as well as the remaining human rights treaties to which it is still not Party (Argentina);	Supported
122.15	Finalise the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (Iraq);	Supported
122.16	Ratify the Kampala Amendments to the Rome Statute of the International Criminal Court (Estonia);	Supported
122.17	Amend the Law on Equality in order to widen the list of possible discrimination criteria (Slovakia);	Noted
122.18	Amend Article 1 of the Law on Ensuring Equality by including criteria such a social origin, marital situation, health status, sexual orientation, gender identity, and gender expression in the main list of criteria for categories to be protected from discrimination (Sweden);	Noted
122.19	Include in the Law on Equality four protected criteria – namely social origin, material situation, sexual orientation and health status (Croatia);	Noted
122.20	Review and amend relevant legislation, such as the Criminal Code and the Code of Administrative Offences, to enhance the protection and promotion of the rights of LGBTI persons and of individuals belonging to vulnerable, minority populations, including religious communities and ethnic minorities, as well as amend article 1 of the Law on Ensuring Equality to include sexual orientation and gender identity (Canada);	Supported
122.21	Adopt the draft law on amending and completing the Criminal Code and the Code of Administrative Offences with regard to bias-motivated crimes and incidents to also include sexual orientation, gender identity and gender expression as ground for hate crimes (Sweden);	Supported
122.22	Adopt a legislative framework that ensures protection against all offences motivated by hatred and prejudice (Côte d'Ivoire);	Supported
122.23	Complete the process of establishing a coordinating body under the auspices of Prime Minister's Office to monitor and report progress on human rights (Kyrgyzstan);	Supported

122.24	Enhance the implementation of the Law on Ensuring Equality by strengthening the mandate of the Equality Council, including by allowing it to issue binding recommendations and to sanction discrimination, as well as by increasing awareness-raising through education (Finland);	Noted
122.25	Fully implement recommendations made by the Council for Preventing and Eliminating Discrimination to better ensure the protection against discrimination and equality of all persons (Republic of Korea);	Noted
122.26	Adopt measures to ensure protection from torture and forced hospitalization and medication in psychiatric institutions (Portugal);	Noted
122.27	Implement legislation to abolish and effectively combat early and child marriage (Sierra Leone);	Noted
122.28	Take concrete measures to address the issue of self-censorship among Moldovan journalists (N), limit media ownership concentration and ensure media pluralism (Norway) (S);	N/S
122.29	Step up efforts to improve free medical facilities, reduce high infant mortality rates and high teenage pregnancy rates (Greece);	Supported
122.30	End discrimination against people with intellectual and psychological disabilities and implement tools to encourage their employment (Croatia);	Supported
122.31	Effectively guarantee the rights of migrants (China).	Supported

4. Further below the Republic of Moldova clarifies its position regarding the recommendations that it has noted:

122.3–122.9: Provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families are considered, for the time being, ineffective for Moldova for several reasons: its provisions are similar to those contained in other international treaties already ratified by the RM such as: Convention No. 181 on Private Employment Agencies; Convention No. 97 on Migration for Employment and European Convention on the Legal Status of Migrant Workers. The RM has signed and ratified 44 conventions regulating labor issues, out of which 3 are dedicated to labor migration. The RM is a State party to the revised European Social Charter, which ensures the implementation of social, health and employment rights of foreigners and members of their families arrived in the RM to work. International treaties, to which Moldova is a State party, have been ratified by most countries of destination of the Moldovan migrant workers, such treaties representing an effective tool to ensure compliance with social and labor rights. The national legal framework related to these matters has been already adjusted to the ratified international treaties and there are no obstacles for their implementation. Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families will not guarantee the legal status of our citizens abroad, as States that have ratified the Convention are not countries of destination for Moldovan citizens going to work abroad.

122.17; 122.18; 122.19: The discrimination criteria provided for by Art. 1, para. (1) of the Law No.121 of 25 May 2012 on Ensuring Equality has an indicative and not a limiting

character. Thus, *"any other similar criteria"* as specified by the Law No. 121, leaves the space for any other criteria that is not directly regulated by law, but is protected under the human rights guarantees in the same manner. Unlimited are treated as well the areas of applicability of the law (ex: "in the spheres of political, economic, social, culturai and *other spheres of life*"). Accordingly, it is not considered relevant widening the list of possible discrimination criteria regulated by the Law No. 121 on Ensuring Equality.

122.24; **122.25**: According to art. 423/5 of the Code on Administrative Offences of the Republic of Moldova (hereinafter – the RM), the Council **on the Prevention and Elimination of Discrimination and Ensuring Equality** has a mandate of a supervising agent over all the components of administrative offenses involving discrimination. The Council thus participates in the punitive policy of the State by ascertaining the role of an agent. However, due to the need for the contravention being examined by an entity disinterested in the outcome of the process, ensuring by this the right to a fair trial, it is considered that it has to be examined by a court of law. The Council represents the prosecution and has an interest in the punishment of the perpetrator. Furthermore, a sanction directly applied by the Council does not deprive a person of his/her right to appeal to a court of law in order to contest it; this will be the court of law who will appreciate the proportionality of the established penalty for committing the offense.

122.26: The Republic of Moldova is committed to ensure the rights and freedoms of persons suffering from mental disorders in the psychiatric inpatient hospitalization and/or following the treatment with his/her free consent (or legal representative if applicable). The excepted cases are situations of psychiatric emergency as mental heterogeneous disorders which require immediate intervention and the highest quality assistance in order to reduce major risks to life, serious injury or threat to the physical integrity of the respective person or others. According to the national legal framework, these situations have an exclusive character and serve as reasons for the forced hospitalization of the person according to art. 28 of the Law No. 1402 of 16 December 1997 on mental health. In these cases, according to provisions of Articles 31 and 32 of the Law No. 1402 and Articles 309-318 of the Civil Procedure Code of the RM, a judicial examination by a court of law of the decision of approval/refusal of the forced hospitalization/forced treatment in inpatient psychiatry is mandatory. The examination is ensured in a public trial, respecting the right to defense of the concerned person fully guaranteeing, by these means, the rights and freedoms of persons whose hospitalization and forced treatment is requested.

122.27: According to the Family Code (Law no. 1316 of 26.10.2000) and Law No. 100 of 26.04.2001 on civil status, the matrimonial age in the Republic of Moldova is 18 years. This age can be lowered, in exceptional cases, but by no more than two years. Reduction of matrimonial age is, by law, accepted by the local governmental authority in whose jurisdiction individuals wishing to marry are registered, based on their application and the parents' or guardians' agreement. Early and child marriage is not considered a matter of concern for the Moldovan Government.

5. The table below provides statistical data on the marriages registered during the past three years in cases of persons between the age of 16 and 18.

Table 2. Marriages among minors (age between 16–18 years) in the Republic of Moldova

Year	*Number of marriages/minors minimum age between 16 – 18 years*	*Total number of marriages/year*
2016	201	22,090
2015	191	23,717
2014	230	24,254

122.28: The data of the Coordinating Council of the Audiovisual (CCA) shows no registered/received complaints/cases on self-censorship of any journalists in Moldova. Each person, journalist, blogger and civic activist in the country is granted the full freedom to write what/when he wants by using, in this respect, TV and Radio, print media and social networks. For example, recent reports of the presidential election monitoring developed by CCA certified that some broadcasters under Moldovan jurisdiction reflected in a fair, balanced and impartial manner the electoral candidates, while others did not respect the socio-political pluralism and opinion, reflecting in a biased manner (favoring/disadvantaged) the electoral candidates.

Notes

[1] Listed under paragraph 123 of the Report of the Working Group on the Universal Periodic Review of the Republic of Moldova https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/436/71/PDF/G1643671.pdf?OpenElement

[2] Listed under paragraph 122 of the Report of the Working Group on the Universal Periodic Review of the Republic of Moldova https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/436/71/PDF/G1643671.pdf?OpenElement